



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction and Preliminary and Procedural Matters-

This hearing dealt with the tenants' application for dispute resolution seeking remedy under the Residential Tenancy Act (Act). The tenants filed for compensation for a monetary loss or other money owed and recovery of the cost of the filing fee.

The tenants attended; the landlords did not attend the telephone conference call hearing. The tenants were affirmed prior to testimony.

In response to my inquiry, the tenants said they served the landlords their application for dispute resolution, evidence, and Notice of Hearing (application package) by ordinary mail.

The tenants also confirmed that they had been approved to serve their application package to the landlords by substituted service, but elected to use ordinary mail instead.

Analysis and Conclusion

Section 59(3) of the Act states a person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

Section 89(1) of the Act indicates the ways in which an application for dispute resolution must be given, such as in the case of the tenant's claim for a monetary order:

- (a) by leaving a copy with the person;

(b) if the person is a landlord, by leaving a copy with an agent of the landlord;

(c) by sending a copy by **registered mail** to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*];

(f) by any other means of service provided for in the regulations.

In the case before me, the tenants said that they served their application to the landlords by ordinary mail.

I therefore find the tenants submitted insufficient evidence that they served the landlords their application for dispute resolution and notice of this hearing in a manner required by the Act.

As a result of the insufficient evidence to prove service of the tenants' application, I therefore **dismiss** the tenants' application, **with leave to reapply**.

Leave to reapply does not extend any applicable time limitation deadlines.

As I have not considered the merits of the tenants' application, I **dismiss** the request to recover the cost of the filing fee, without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: February 06, 2023

Residential Tenancy Branch